



#### Document level: Trustwide (TW) Code: MH8 Issue number: 10.21

# Missing Persons policy and procedures

Including section 18 Mental Health Act 1983, retaking of patients liable to be detained, subject to Guardianship or SCT and who are absent without leave (AWOL)

Lead executive	Director of Nursing and Therapies
Authors details	CWP Safety and Security Lead - 01244385174 MHL Manager, Safe Services - 01244 393167

Type of document	Policy
Target audience	Clinical inpatient staff
Document purpose To provide staff with relevant policy and procedures with regard to return of patients who are missing and those detained persons who absent without leave (AWOL).	

Approving meeting	Clinical Practice and Standards Sub-Committee	Date 25-Jun-20
Implementation date	25-Jun-20	

CWP documents to be read in conjunction with		
<u>MH1</u>	Mental Health Law Policy Suite	
<u>GR1</u>	Incident reporting, management and review policy	
CP5	Clinical risk assessment policy	
<u>CP3</u>	Health records policy	
<u>CP10</u>	Safeguarding adults policy	
<u>CP40</u>	Safeguarding children's policy	
<b>GR12</b>	Media policy	
<u>CP17</u>	Guidelines for best practice following the unexpected death of a service user	

Document change history		
What is different?	Updated guidance throughout the document	
Appendices / electronic forms		
What is the impact of change?	Low	

Training	Yes - Training requirements for this policy are in accordance with the CWP
requirements	Training Needs Analysis (TNA) with Education CWP.

Document consultation		
Clinical services		
Corporate services		
External agencies		

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implications	

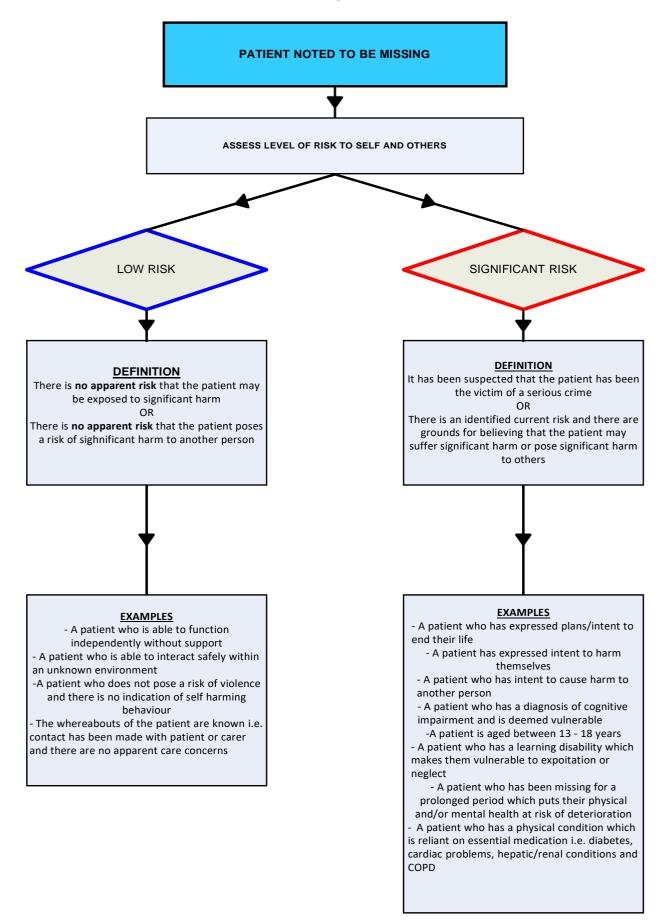
External references

- Mental Health Act, 1983, as amended by the Mental Health Act 2007
   Mental Health Act Code of Practice 2015
- 3. Reference Guide to the Mental Health Act 2015
- 4. Mental Health Act Manual 17th Edition, Richard Jones 2014

Equality Impact Assessment (EIA) - Initial assessment	Yes/No	Comments
Does this document affect one group less or more favourably than	another on	the basis of:
- Race	No	
<ul> <li>Ethnic origins (including gypsies and travellers)</li> </ul>	No	
- Nationality	No	
- Gender	No	
- Culture	No	
- Religion or belief	No	
- Sexual orientation including lesbian, gay and bisexual people	No	
- Age	No	
<ul> <li>Disability - learning disabilities, physical disability, sensory impairment and mental health problems</li> </ul>	No	
Is there any evidence that some groups are affected differently?		
If you have identified potential discrimination, are there any exception Select	ons valid,	legal and/or justifiable
Is the impact of the document likely to be negative?	No	
- If so can the impact be avoided?	n/a	
- What alternatives are there to achieving the document without the impact?	n/a	
- Can we reduce the impact by taking different action?	n/a	
Where an adverse or negative impact on equality group(s) has been screening process a full EIA assessment should be conducted. If you have identified a potential discriminatory impact of this proce the human resource department together with any suggestions as reduce this impact. For advice in respect of answering the above q	dural docu to the actic	ment, please refer it to n required to avoid /
human resource department.		
Nas a full impact assessment required?	No	

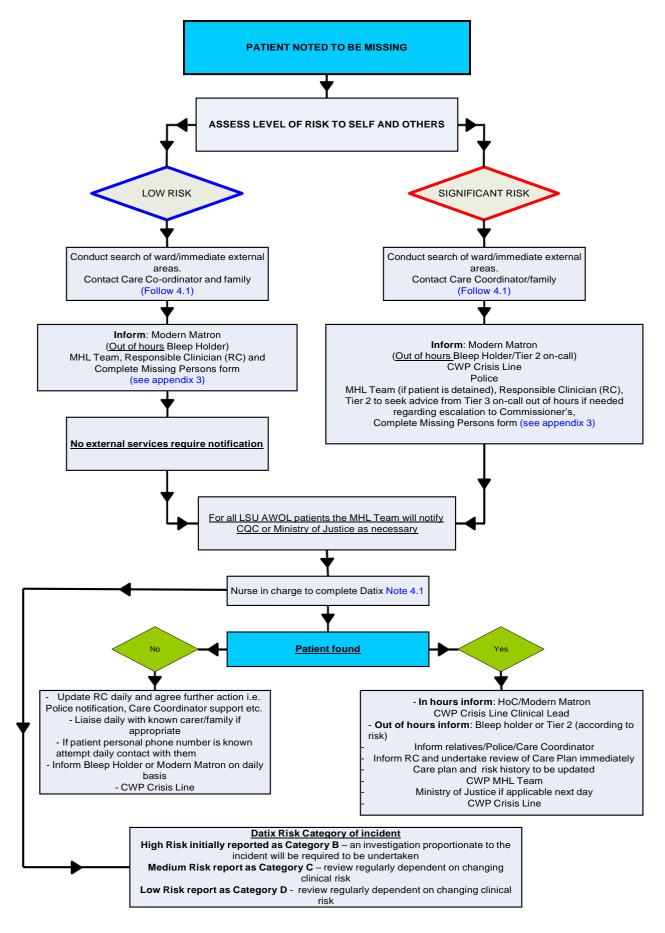
Was a full impact assessment required?	No
What is the level of impact?	Low

#### Contents

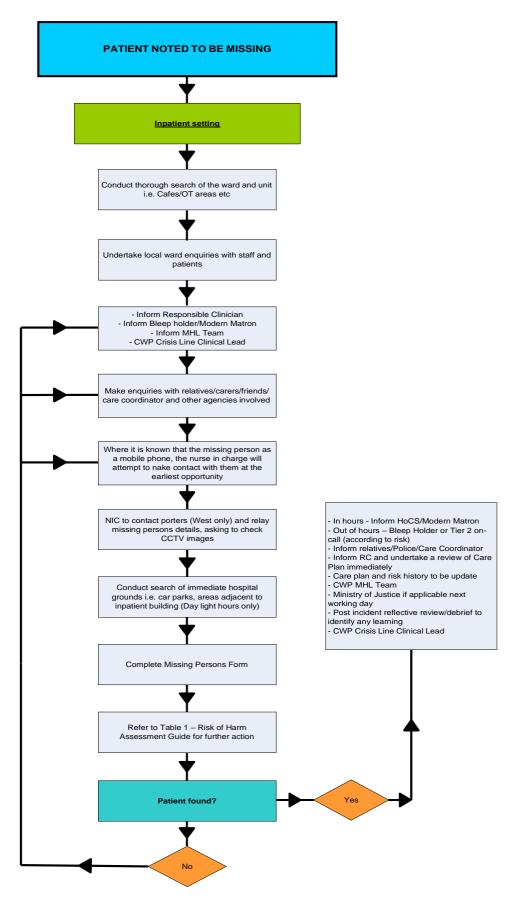


#### Quick reference flowchart 1 - Action following assessment of risk

Quick reference flowchart 2 - Assessment of risk criteria and subsequent reporting pathway for clinical services when patient identified as missing or AWOL

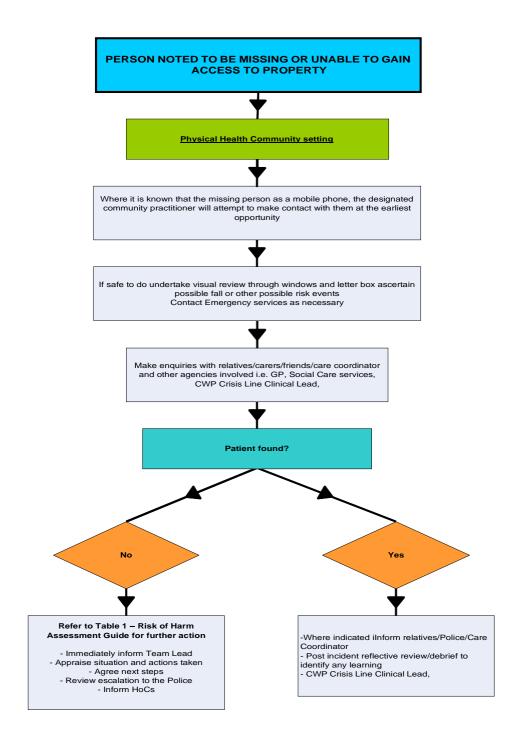


# Quick reference flowchart 3 - Action to be taken following when person identified as missing from inpatient unit



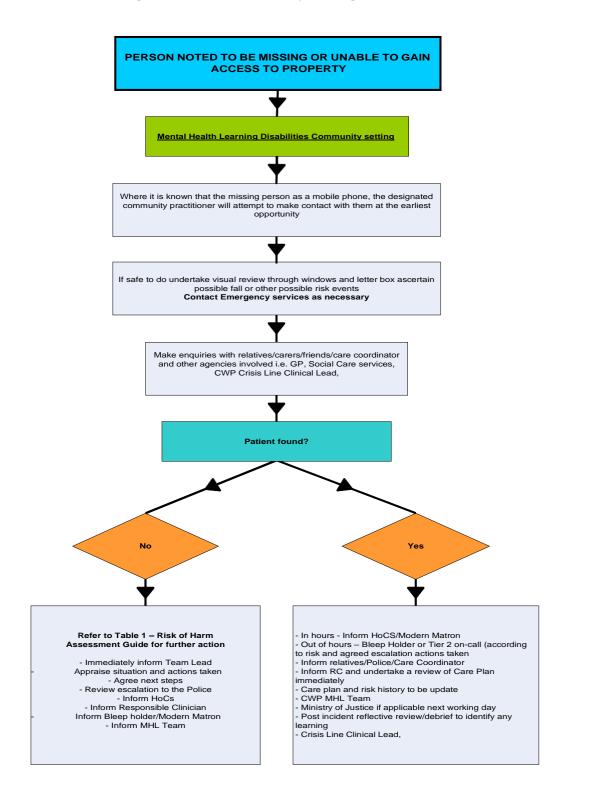
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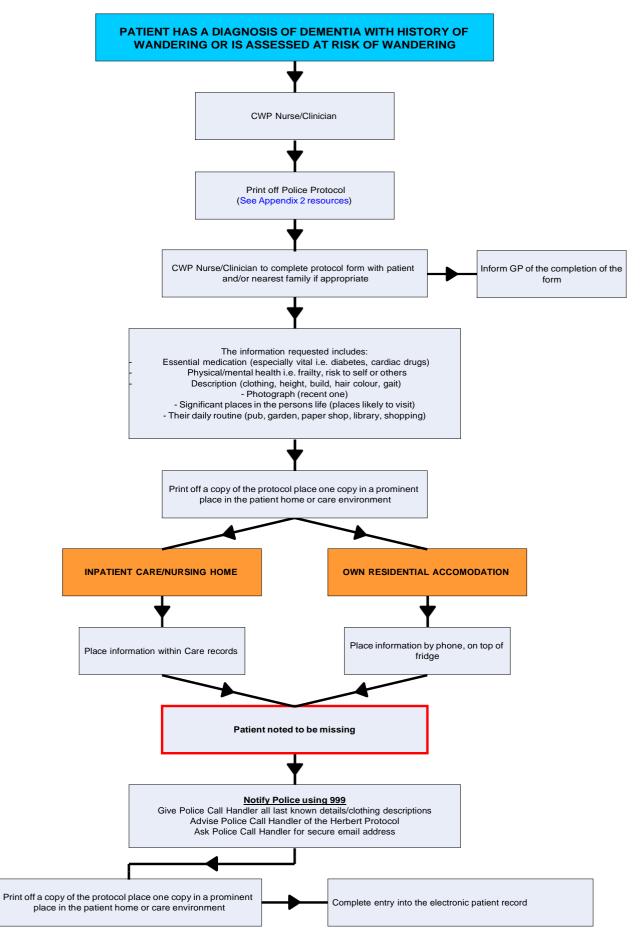
Quick reference flowchart 4 - Action to be taken following when person identified as missing from Physical Health community setting



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Quick reference flowchart 5 - Action to be taken following when person identified as missing from Mental Health Learning Disabilities community setting



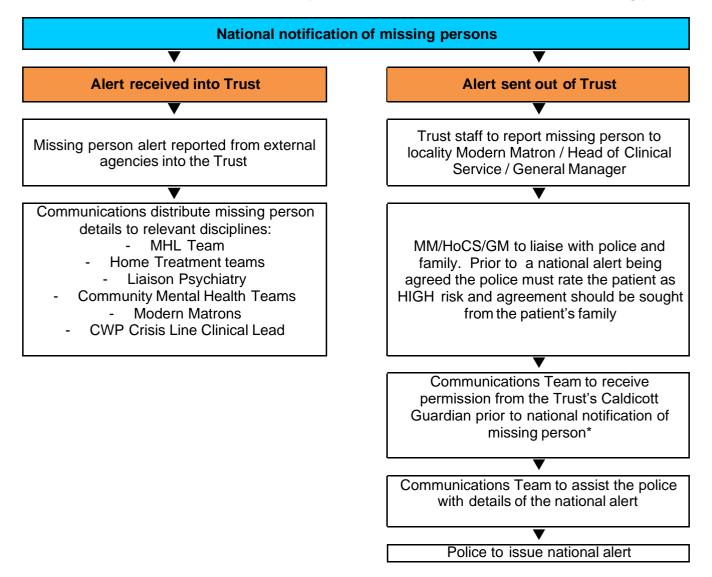


#### Quick reference flowchart 6 - Herbert protocol (also see <u>appendix 2</u>)

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Quick reference flowchart 7 - Escalation process for the National notification of missing patient

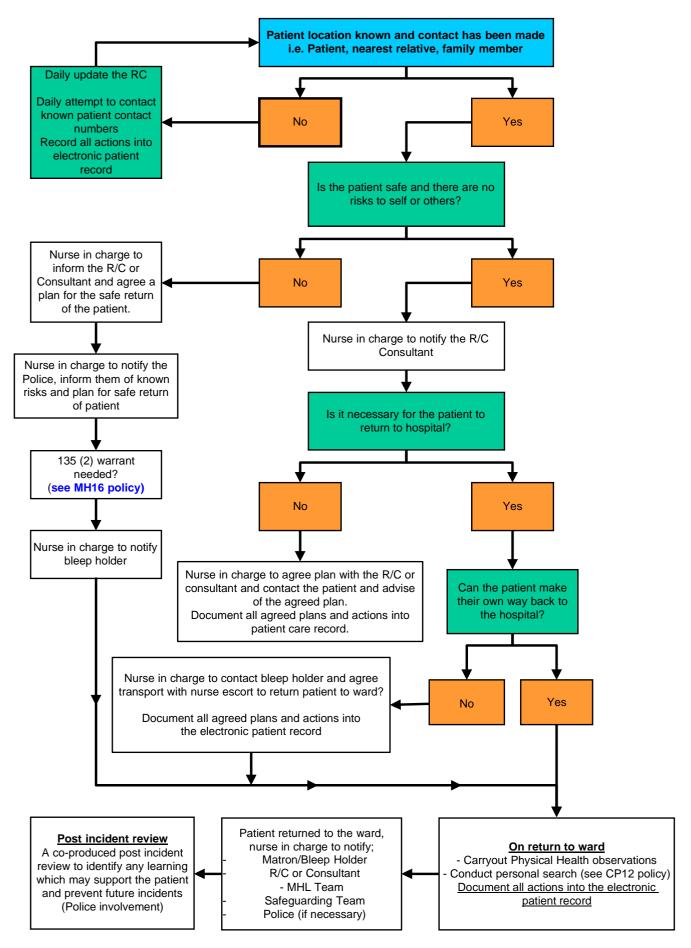


# Name of CWP Caldicott Guardian:

Dr Faouzi Alam Medical Director & Caldicott Guardian Trust Board Offices Liverpool Road Chester CH2 1BQ

\*In the absence of the Caldicott Guardian staff must contact either the Head of Clinical Governance, or the Health Records Manager (in hours) or Tier 3 on-call (out of hours).

#### Quick reference flowchart 8 - Escalation process for missing inpatient (non- Low Secure Unit)



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### 1. Introduction

CWP has a duty to ensure the safety of all patients within its care, and seeks to put in place systems that are based on best practice, and in accordance with Mental Health Act legislation.

This policy aims to support staff in following set procedure whenever a patient is considered as 'missing'. The circumstances will be:

- A patient is noted to be missing (whereabouts unknown)
- A patient has failed to return or respond to recall notice whilst in community (including CTO, Guardianship, section 17 & 117 Aftercare)

Section 18 of the Mental Health Act 1983, as amended by the Mental Health Act 2007, provides specific powers for retaking detained patients who are absent without leave or who fail to return from leave, either at the end of leave or when recalled. It also applies to patients subject to Guardianship who are absent without leave from their place of residence, and patients subject to a Community Treatment Order (CTO) who have failed to attend hospital when recalled, or absconded following recall.

### 2. Procedure

This procedure re-iterates some key points of the Mental Health Act, 1983. It is essential that this procedure is read in conjunction with the Mental Health Act Code of Practice (and where necessary the Mental Health Act itself) as it is statutory guidance and provides detail not contained in this document.

For further guidance on the recording and sharing of information with regard to vulnerable adults, children and young people, refer to <u>safeguarding adult's policy</u> and <u>safeguarding children policy</u>.

#### 3. Risk assessment (see <u>quick reference flowchart 1</u>)

All patients are subject to continual assessment including assessment of risk, as per the clinical risk assessment policy, and as such, the decision regarding risk be made prior to a period of leave being agreed and documented into the electronic patient record undertaken by a registered nurse/ practitioner. Where possible should the patient and/ or their carer should be involved in the risk assessment process and also with the planned leave arrangements.

#### 4. Documentation and reporting processes

Staff must report the incident via the Trust Datix system and also record actions into the patient's care records. (Refer to <u>GR1 Incident reporting and management policy</u>).

## 5. What is Absent Without Leave (AWOL)

Section 18 of the Mental Health Act, 1983, clarifies the circumstances when detained patients are considered to be AWOL in particular when they:

- Have left the hospital in which they are detained without leave being agreed (under Section 17 of the Act) by their responsible clinician
- Have failed to return to the hospital at the time required to do so under the conditions of leave under section 17
- Are absent without permission from a place where they are required to reside as a condition of leave under section 17
- Have failed to return to the hospital if their leave under section 17 has been revoke
- Are patients on a community treatment order (CTO) (community patients) who have failed to attend hospital when recalled
- Are CTO patients who have absconded from hospital after being recalled there

- Are conditionally discharged restricted patients whom the Secretary of State for Justice has recalled to hospital
- Are Guardianship patients who are absent without permission from the place where they are required to live by their guardian <u>Code of Practice Chapter 28.3</u>.

# 6. What should immediately be done when a patient absents themselves? (see quick reference flowcharts)

The Trust is responsible for the welfare of patients in their care; there are processes for locating and safely returning <u>all missing patients</u> in a timely manner. In all cases, both inpatient and community, when a patient is reported as absent approved actions must be implemented and evidenced gained please use the <u>appendix 1</u> checklist as guidance. Where Police attendance is deemed necessary to enter a private residence please refer to <u>MH16 135 and 136 Police arrest in a public place policy</u> for further guidance.

#### a) Community Treatment Order patients (persons aged 16+ years)

For CTO patients who have been recalled and failed to attend hospital the missing persons Care Coordinator/Lead Professional or nominated deputy must try to locate the patient during working hours. This may include contacting relatives and carers (ensuring minimum information is given in order not to breach confidentiality). If the patient remains absent out of hours, the Emergency Duty Team must also be informed by telephone (not email). The level of risk will be determined by the most recent care plan and this will determine whether or not police assistance is required.

#### b) Guardianship patients (persons aged 16+ years)

Guardianship patients who are AWOL from the place they are required to live may be taken into custody by any member of the staff of a local authority, any person authorised in writing by the local authority or the private guardian (if there is one), or a police officer.

#### c) For patients with dementia diagnosis who are deemed to be at risk of wandering (see <u>quick reference flowchart 6</u>)

For community based patients with dementia diagnosis who are deemed to be at risk of wandering who are noted as missing the Police should be notified immediately by the missing persons Care Coordinator/Lead Professional or nominated deputy using 999. Where there is a completed Herbert protocol document the Police Call Handler should be informed of it and all details given to them. Where possible the Herbert protocol should be given to the Police by hand or by secure email. To download the Herbert Protocol see <u>appendix 2</u>.

#### d) Low Secure Services patients

For matters relating to missing LSU patients the most senior nurse on duty (nurse in charge/ shift coordinator) should liaise with the Police, NHS England and/ or Ministry of Justice. For patients detained on low secure units further detailed information is provided to Cheshire/Merseyside police on admission. If the person is still liable to be detained and is required to return to the hospital, the responsibility for returning the patient rests with the hospital. Dependent on risk present police assistance can be requested however if deemed appropriate the police may request ambulance or hospital transport to affect the return.

#### e) Restricted patients

For matters relating to missing LSU patients the most senior nurse on duty (nurse in charge/ shift coordinator) should liaise with the Police, NHS England and/ or Ministry of Justice. If the patient is subject to a MHA restriction order the following people must be contacted:

- Cheshire & Merseyside Police Contact: Dial 101: this will put you through to the appropriate location;
- Ministry of Justice: Contact 020 3334 3555 (MHL are responsible for notifying)
- Relevant Commissioners must be informed either out of hours (seek advice from Tier 3 on call if needed) or at least as soon as possible the next working day.

#### 7. Procedure for Informing the Police of a Missing Person (see appendix 3)

The decision whether or not to inform the Police in normal hours should be made between the Clinical Ward Manager where necessary in consultation with the Modern Matron and out of hours by the Shift Co-ordinator on consultation with the 1<sup>st</sup> Tier on call (bleepholder). It should be the Shift Co-ordinator/ Nurse in Charge who liaises with the PoliceThe Police should <u>not be notified</u> for each missing patient, <u>Section 28.15 of the Code of Practice</u>, Mental Health Act, 1983, (2015) <u>only</u> requires the police to be notified immediately if a patient who is missing is:

- Considered to be particularly vulnerable
- Considered to be dangerous AND/OR
- Subject to restrictions under Part 3 of the Act

There are also other cases where, although police assistance may not be required, a patients history may make it helpful to inform the police that they are AWOL. To manage the risks associated with patients who are absent without leave, the missing person's procedure must be followed as outlined in <u>quick reference flowchart 1</u>. The actions taken must be recorded as a clinical note headed 'Missing Person' into the patients care record.

The incident must be reported on the Trust Datix system as detailed in the table below – for further guidance refer to the <u>incident reporting and management policy</u>.

If following an assessment of the risks and it is deemed appropriate ward staff should contact Cheshire / Merseyside Police using 101 giving as much detail as possible regarding the patient. The information should be clear and include:

- Personal details (e.g. address, relative details, and contact numbers);
- Risk category; low or significant(see <u>quick reference chart 1</u>)
- Type of risk; harm to others, harm to self, physical vulnerabilities (see <u>quick reference chart</u>
   <u>2</u>)
- Mental state when last seen;
- Time limits for returning the patient into custody: (see section 10)

An incident number will be given and this, together with details of the incident, should be documented by ward staff as a clinical note on the electronic patient record.

#### 7.1 Timescales for re-taking AWOL patients

Where the Police have been notified the reporting staff must inform them of any time limits for taking a patient into custody.

SECTION	TIMESCALE
- Section 5(4)	
<ul><li>Section 5(2)</li><li>Section 4</li></ul>	May be taken into custody anytime up to the
- Section 2 - Section 135	expiry of the section

SE	CTION	TIMESCALE				
-	Section 136					
- -	Section 3 or 37, 47, 48 (unrestricted) Section 7 (Guardianship) Community Treatment Order (CTO) - patients who have failed to attend hospital following recall	May be taken into custody anytime up to six months from the date which s/he absconded from hospital/place of residence, or the expiry of the section, whichever is the latter				
-	Section 35, 36, 38	There are no time limits to re-taking an AWOL patient				
-	Patients subject to a restriction order, limited direction order or restriction direction	May be taken into custody anytime until the order ceases to have effect.				

For further guidance, refer to the <u>incident reporting and management policy</u>. This includes consideration of implementing the staff support process, regardless of the outcome.

### 7.2 Delayed Notification to the Police (detained patients)

If a detained patient is absent from the ward and is assessed as low/medium risk consideration may be given to delaying notification to the police for a period of up to 48 hours from the time they were reported as absent. This may be in the following circumstances:

- A patient is late returning from an agreed period of Section 17 leave and there is no information available to suggest grounds for concern;
- A patient who has absconded from the ward, whose risks and presentation are well known but there is no significant concern for the immediate period following their absence.

However, if concern exists, the risk criteria changes or the patient is unknown with regards to risks, presentation and vulnerability, then a delayed notification to the police may not be appropriate. In these instances discussion with the patients Consultant or nominated deputy may be necessary to determine an action plan. Further consideration to delay notification to the Police, during in hours this should be a multi-disciplinary team decision and that the Modern Matron should be notified. Out of hours I think that this decision should be made by the shift co-ordinator/ nurse in charge, the 1<sup>st</sup> tier on call (bleepholder) in discussion with the on call Consultant.

#### 8. National notification / alert of missing patients (see <u>quick reference flowchart 7</u>)

The decision to consider a national notification should be made in hours between the MDT, Modern Matron and HoCS and out of hours by the shift co-ordinator/ nurse in charge, 1<sup>st</sup> Tier on call (bleepholder), 2<sup>nd</sup> tier on call manager and on call Consultant. If, following completion of the risk assessment, **and** in liaison with the Trust's Caldicott Guardian, it is deemed that a national alert is a proportionate response in establishing the whereabouts of a missing patient; the flowchart at the beginning of this policy should be followed. This flowchart also shows how alerts from outside agencies will be distributed within the Trust.

#### 9 Care Quality Commission (CQC) notification

For patients detained under the Mental Health Act, 1983, in a low secure unit, and who are AWOL after midnight on the first day of their absence a notification must be submitted to the Care Quality Commission. The notification will be submitted as soon as practicable by the Mental Health Law (MHL) Team, following completion by the nurse-in-charge of the ward/Ward Manager. During in hours the Modern Matron/ HoCS should be made aware, out of hours the 2<sup>nd</sup> Tier on call manager. If it is a service user detained on a restriction order then 2<sup>nd</sup> tier should report up to 3<sup>rd</sup> tier out of hours and Head of Operations in hours.

**10. Procedure for location and return of Missing Patient (see quick reference flowchart 3)** Following completion of all checks, as described above under action to be taken <u>if the whereabouts of</u> the patient is known in accordance with MHA Code of Practice it is the responsibility of the ward and/or community team to arrange for the patient's safe return. The return of the service user should be co-ordinated by the Shift Co-ordinator/ nurse in charge in liaison with the Clinical Ward Manager. Out of hours the liaison would be with the 1<sup>st</sup> tier on call (bleepholder). Safe transportation Policy should be referred to as this would need to be used to assess the levels of risk if we are transporting the individual back. This should be done when it is considered that there is no immediate risk to the patient, staff or members of the public.

- a) Where it is known that a patient is at a safe place and that there are no known risks staff must arrange for the return of the patient. This must be agreed with the patients Consultant or nominated deputy.
- b) Where there are known immediate risks to the patient, staff or members of the public the police should be notified and all relevant risk information and patient details passed to them.
- c) If the patient is informal the police cannot usually compel a patient to return, however vulnerability and perceived risk will be taken into account and police powers under the Police and Criminal Evidence Act (PACE) may be used.
- d) Where the police have been asked to assist in the safe return of a patient using their transport and/ or escort a patient to hospital the Police will use their RAVE (Resistance, Aggression, Violence and Escape) risk assessment to determine the appropriate response.

#### 10.1 Procedure for implementing a section 135(2) warrant

Please see <u>MH16 135 and 136 Police arrest in a public place policy</u> for the procedure to obtain a warrant to provide Police Officers with a power of entry to private residence for the purpose of removing a patient who is liable to be returned to hospital or any other place or into custody under the Act

# 10.2 Timescales for the return of unrestricted patients liable to be detained or subject to Guardianship or subject to SCT

Return BEFORE 28 days of being AWOL						
Section has not expired or not due to expire Section has expired or is due to expire	Status remains and no form completion required Deadline for completing renewal form is extended for one week from date of return					

Return AFTER 28 days of being AWOL	
Responsible Clinician must examine the patient within 7 days of return;	RC to complete relevant form to confirm continued detention/CTO/Guardianship is necessary
The section has not expired or is not due to expire	RC to complete relevant form which will
Section has expired or is due to expire	automatically renew the section from the date it would have expired.

Further guidance on the timeframe for the return of unrestricted patients liable to be detained can be found in Chapter 11 of the Reference Guide to the Mental Health Act, 1983, 2015 edition.

### 11. AWOL Patient located out of area, within England

CWP Managers will be responsible for arranging the safe return of their detained patients from out of area places. The safe return of the patient should be co-ordinated by the Shift Co-ordinator/ nurse in charge in liaison with the Clinical Ward Manager. Out of hours the liaison would be with the 1<sup>st</sup> tier on call (bleepholder). Safe transportation Policy should be referred to as this would need to be used to assess the levels of risk if we are transporting the individual back. Where there are detained patients from another hospital those managers will equally be responsible for their safe return.

Police officers from the appropriate authority will not be expected to travel outside area for this purpose. However, due to risks identified, if the Managers of the hospital wish to make out a case for the involvement of police officers, they should liaise with an officer of at least the rank of Inspector.

If arrangements for the return of the patient cannot be made that day, the local mental health services for the area the patient is located in should be contacted. Written authority from the detaining hospital will be faxed, authorising that authority to take the patient 'into custody' under section 18 until arrangements for the patient's return can be made.

### 12. AWOL Patients who have left the United Kingdom

There is no power under the Mental Health Act to return patients who have left the United Kingdom.

# 13. AWOL patients who have been located within the United Kingdom - Wales, Scotland, Northern Ireland, Isle of Man and the Channel Islands

Special provisions apply for patients who have been located, or who have been detained under a corresponding or similar provision, within the United Kingdom.

Refer to chapter 11 of the Reference Guide to Mental Health Act 1983, Department of Health, 2015.

## 14. Actions to be taken when AWOL patients return to the ward?

- If the patient has returned to the ward without assistance the ward staff must inform the police immediately.
- If the patient has been returned by the police, any incidents or issues arising from the patient's absence will be reported to ward staff.
- Ward staff must inform relatives/carers/professionals/ of the patient's return
- Ward staff also need to notify CWP Mental Health Law Team who will then inform the CQC, commissioners/ Ministry of Justice
- Ward staff should be made specific to the shift co-ordinator/ nurse in charge to co-ordinate any activities required.
- A review of the patients agreed leave to undertaken by the Care Team Lead or nominated deputy and also their level of therapeutic observations.
- Ward staff must document the patient's return as a clinical note into the patients care record
- A review of the patient's care plan must be undertaken, to include re-assessment of risk factors and the potential for further absconding from the ward, and planned interventions to reduce this risk.
- A post incident debrief undertaken, to include the Police and patient, at the earliest opportunity to identify any learning from the incident which may prevent further incidents

Recording of observations must commence on return to the ward to monitor the patient's mental and physical health – refer to the <u>physical health pathway and policy</u> and <u>therapeutic observation policy for</u> <u>in-patients</u> for further guidance.

# 15. What should be done when a missing person is involved in a Serious Untoward Incident?

Following the occurrence of a serious untoward incident, immediate action should be taken to ensure that service users, staff and the public are safe. This must be captured on the incident form within <u>Datix</u>. Senior clinician on duty should notify in hours Modern Matron and out of hours 1 <sup>st</sup> and 2<sup>nd</sup> tier manager.

AWOL	
-	Patient are absent without leave (AWOL) or have otherwise absconded from legal
	custody whilst under the mental health act, including when patients are thought to
	be AWOL
Community	A CTO provides a framework for the management of patient care in the
Treatment Order	community and gives the responsible clinician the power to recall the patient to
	hospital for treatment if necessary.
Guardianship	Guardianship provides an authoritative framework for working with a patient, with
	a minimum of constraint, to achieve as independent a life as possible within the
	community. Where it is used, it should be part of the patient's overall care plan
Herbert protocol	The Herbert Protocol is a national community safety scheme, supported by the
	Police, which encourage health providers, carers and families to record vital
i	information on a form which could be used in the event of a vulnerable person
9	going missing within a community setting, not from inpatient services.
Immediate	Hospital grounds, car parks and other known nearby areas which the patient may
external areas	visit. This will be dependent on the time of day and areas to search agreed
1	following an assessment of any risks i.e. patient risk histories, lone worker, poor
	light times etc.
Out of area	Areas outside of the organisational footprint
Restricted	Where a part 3 patient (medically disordered offender) is made subject to special
patient	restrictions ('restricted patients'), the court, or the Secretary of State for Justice in
	some circumstances may specify that the person be detained in a named unit
,	within a hospital. This is to ensure an appropriate level of security.

#### Appendix 1 – Actions taken / notification checklist

This checklist is an aide memoire to assist staff in following the processes required when a patient is declared missing. All actions taken should be recorded in the patient's record <u>and a copy made</u> <u>available to the responding Police Officers</u>. This form does not need to be retained once these actions have been documented in the patient's record.

No	Notifications	When Missing (initials)	When Returned (initials)
1	Search of person's room, ward and adjacent areas		
2	Search of hospital grounds/buildings etc.		
3	Attempt to contact missing person by phone, if applicable		
4	Matron (in hours)		
5	Responsible Clinician/approved clinician in charge		
6	Crisis Line Clinical Lead, Band 7 or coordinating Band 6		
7	Tier 2 (on call) by Bleep holder (out of hours)		
8	<ul> <li>High risk patients:</li> <li>Inform Head of Clinical Service and Matron</li> <li>Inform Tier 2 on-call (out of hours)</li> <li>Tier 2 to seek advice from Tier 3 on-call if needed regarding notifying Commissioners</li> <li>Inform Ministry of Justice (next working day)</li> </ul>		
9	Next of Kin/ Nearest Relative		
10	If appropriate contact Police (Cheshire & Merseyside) - Dial 101 and ask for local area		
11	Switchboard		
12	Security / Porters / CCTV		
13	Community Mental Health team (if appropriate)		
14	Accident and Emergency (A&E)		
15	General Practitioner (GP)		
16	Social Services (if appropriate)		
17	Mental Health Law Team (if appropriate)		
18	Complete Datix form		
19	Other (if appropriate) -		
20	Patient returned to ward - Date: Time:		

Signed

Position

#### Appendix 2 – Herbert Protocol information

- a) Cheshire patients Missing Persons
- b) Merseyside & Wirral patients Missing Persons
- c) <u>Herbert information leaflet</u>
- d) <u>Herbert poster</u>

# Appendix 3 – Police Missing/Absconded Patient Report Form

	IT DETAI	LS									
Patient	Name										
Patient known as					DOB						
Mental Health Act status					Ward						
NHS number											
Patient address & postcode											
Telephone numbers (including											
Nearest relative Contact details											
•		ontact det									
	own sight	ting (locat	tion &						noted		
time)								as missi	ng		
Patient	descripti	ion (pleas	se indic	ate):							
Male		Female		Other							
White		Black		Asian		Chinese		Ot	her		
Hair col	our		-	Hair							
Colour of	of eyes			Glasses	Y/N		P	hysical bu	uild		
		arks (scars			risms)						
Please	describe v	vhat and/o	or where	;							
Last kno	own clothi	ing descri	ption:							CCTV	
(Please	describe)									image	(Y/N)
Missing	g Patient	risk statu	is; Plea	se refer t	o MH8 I	Missing P	atie	ent policy	(indic	ate in l	box below)
High						Low					
Police I	nformed										
(Y/N)						Police In	cide	ent numbe	er:		
Patient	Risk Su	ımmary (	Clinica	Assess	ment o	f Risk to	Se	elf or Ot	hers	details)	i.e. current
vulnera	bilities	(Herbert	Proto	& loo	Alzhei	mer's),	kno	wn pla	ces	to vis	sit, suicida
	-	•	itia, cui	rrent mer	ntal stat	e, Learni	ng	Disabiliti	es, w	e apon	s, diabetic,
previou	ısly missi	ng									
Ward	Offic	e phone	T			Name of	f Nu	rse in			
Ward details	Offic	ce phone				Name of charge	fNu	rse in			

Please provide a copy of this form to the police when they attend and copy into electronic patient record.